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Guidelines for Legal Services to be Provided by Debtors' Attorney in Chapter 7 Cases

To assist individuals who are chapter 7 debtors and their attorneys in arriving at a mutual understanding of the services that will be included in the process of filing and concluding a chapter 7 bankruptcy case, a description of the standard services provided by an attorney in the District is set forth below. Use of the term “the attorney” means an attorney in the law firm representing the debtor, who is admitted to practice law before the [U.S. District Court for the Northern District of California](#) [1]. Inherent in these Guidelines is the concept that due to the complexities and unpredictable aspects of most such cases, it is not appropriate to set a minimum or maximum attorneys’ fee for chapter 7 cases. The following services to be provided by the attorney assume that the debtor has fully, accurately and honestly disclosed all assets, debts, and all other financial information requested by the attorney or required by the [United States Trustee](#) [2], the chapter 7 trustee, the [official bankruptcy forms](#) [3] or by law. In addition, the performance of these services by the attorney is understood to be completely dependent upon the continued timely cooperation of the debtor with regard to paying required court fees, providing information and documentation, and executing documents necessitated by the unfolding legal process and the requirements of the attorney in representing the debtor effectively. If the debtor fails to perform any of the debtor’s obligations under these Guidelines, including the fulfillment of financial commitments made to the attorney, the attorney may move to withdraw from the case. If the attorney fails to perform the legal services described herein, which are not intended as an exclusive list, the debtor may bring the omission to the attention of the court or pursue other available remedies.

A. Services Always Included in the Pre-Petition Fee

1. The attorney provides a copy of these Guidelines to the debtor.
2. The attorney meets personally with the debtor and explains the options available under both chapter 7 and chapter 13 before the debtor selects the chapter to be filed.
3. The attorney reviews the final petition, schedules, statement of financial affairs, and

statement of social security number, prior to having them filed with the court.

4. The attorney, with staff assistance, reviews the debtor's proof of identification and social security number and advises the debtor to provide documentation thereof or a written statement that such documentation does not exist, at the § 341 meeting.

5. The attorney personally attends the § 341 meeting. However, if the attorney is unable to attend the meeting, he/she may arrange for another attorney to appear, subject to the provisions of 6.

6. The attorney provides an "outside contract services attorney" representing the debtor at legal proceedings (such as § 341 meetings and other meetings, depositions and court appearances) with all of the information necessary to fully and competently represent the debtor. The attorney must also take precautions to assure that the information imparted to the outside contract services attorney is held in confidence. Where use of an outside contract services attorney is anticipated at the time of retention, the attorney must obtain the debtor's consent to the employment of an outside contract services attorney in a written agreement that names the outside contract services attorney or a list of possible outside contract services attorneys, and must fully disclose the compensation for services to be performed. Where the use of an outside contract services attorney is unanticipated at the time of retention but becomes necessary, the outside contract services attorney may be employed, provided that all of the following circumstances have been met: a) the attorney informs the client of the name, address and telephone number of the outside contract services attorney and obtains the prior written consent to use of an outside contract services attorney whenever possible; b) the attorney fully discloses the compensation for services to be performed by the outside contract services attorney; and, c) the attorney has attempted to obtain a continuance of the matter without success, unless it is in the debtor's best interests to proceed with the matter.

7. The attorney explains to the debtor with secured debts all of the following rights:

- a to retain the security with continued ongoing payments in accordance with applicable case law;
- b to redeem the security by motion or negotiation;
- c to reaffirm the underlying debt, along with the risks of incurring future deficiency claims; and
- d to surrender the security.

8. The attorney files changes of the debtor's mailing address, as necessary.

9. The attorney represents the debtor in matters brought under [**11 U.S.C. § 707\(a\)**](#) [4].

10. The attorney, with staff assistance, informs the debtor of all chapter 7 trustee and U.S. Trustee requests for documents or other information and assists the debtor in transmitting available information to the requesting trustee. However, the debtor is solely responsible for

locating such documentation and providing it to the attorney on a timely basis.

11. The attorney, with staff assistance, responds to reasonable creditor inquiries to confirm the case filing.

12. The attorney, with staff assistance, assists the debtor in:

- a. ensuring that creditors, collection agents, and attorneys provided by the debtor are notified of the case filing; and
- b. notifying levying officers or agencies in order to stop evictions, foreclosures, wage garnishments, bank levies, and other asset seizures in effect on the petition filing date, as appropriate.

B. Services Always Included, But Additional Fee May Be Charged Pre- or Post-Petition, as Mutually Agreed

13. The attorney, as appropriate and necessary, where requested by the debtor:

- a. negotiates with a secured creditor to confirm the enforceability of the security interest and the redemption value of said security;
- b. files a motion to set the value and redeem said security; or
- c. negotiates a reaffirmation agreement having fully advised the debtor of the legal effect and consequences of the agreement and any default thereunder, including the possibility of a future deficiency claim against the debtor, and being persuaded that such agreement represents a fully informed and voluntary agreement by the debtor and does not impose an undue hardship on the debtor or a dependent of the debtor.

14. The attorney, based upon new information provided by the debtor or confirmed by the debtor, files signed amendments to the petition, schedules, statement of financial affairs, or statement of social security number.

15. The attorney reviews motions for relief from the automatic stay, with staff assistance communicates with the debtor regarding them, responds to such motions where necessary, and appears in court on behalf of the debtor where necessary.

16. The attorney represents the debtor with regard to objections to claims of exemption.

17. The attorney represents the debtor in matters brought under [11 U.S.C. §. 707\(b\)](#) [4], as well as related [Rule 2004](#) [5] examinations.

C. Optional Services Not Included in the Pre-Petition Fee - Subject To Separate Agreement, If Any

18. The attorney files motions for abandonment of estate property.

19. The attorney files motions to avoid judicial liens on real property and other liens that impair exemptions.
20. The attorney files or defends, on behalf of the debtor, any dischargeability complaints.
21. The attorney defends objections to discharge pursuant to [11 U.S.C. § 727](#) [6].
22. The attorney files or defends, on behalf of the debtor, other adversary proceedings including ancillary matters such as [Rule 2004](#) [5] examinations and document requests.
23. The attorney files, prosecutes, or defends appeals on behalf of the debtor.
24. The attorney moves to re-open the debtor's closed case.

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